REMARKS

Claims 1-11 and 13-23 are pending in the application. Claims 6-10 and 17-22 have been withdrawn from consideration.

Applicant has carefully considered the Examiner's Final Action of March 3, 2009, and the references cited therein. The following is a brief summary of the Final Action.

Claim 23 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 1, 11 and 23 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending Application Serial No. 10/687,006. Claims 1, 11 and 23 were rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 5 and 11 of U.S. Patent No. 7,488,441 B2. Claims 1 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentablve over Haynes '071 (WO 02/52071) in view of Maggio '134 (WO 00/65134 A1; US Patent No. 6,966,762 B1) and Epstein et al (USP 3,052,009). Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes '071 in view of Maggio '134 and Epstein et al as applied to claim 1, and further in view of Trimble (WO 93/21370). Claims 4 and 5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Haynes '071 in view of Maggio '134 and Epstein et al as applied to claim 1, and further in view of Haynes '379 (USP 6,117,379). Claim 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Maggio '381 (FR 2,825,381; USP 6,974,316 B2) in view of Haynes '071 and Epstein et al. Claims 11 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Schmit (WO 02/34990 A1; USPAP 2004/0028763 A1) in view of Epstein et al. Claim 13 was rejected under 35 U.S.C.

103(a) as being unpatentable over Maggio '381 in view of Haynes '071 and Epstein et al as applied to claim 11, and further in view of Trimble. Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Schmit in view of Epstein et al as applied to claim 11, and further in view of Trimble. Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over Maggio '381 in view of Haynes '071 and Epstein et al as applied to claim 11 and further in view of Haynes '379. Claims 14 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Schmit and Epstein et al as applied to claim 11 and further in view of Haynes '379. Claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over Maggio '134 in view of Davis et al (USP 6,660,218 B2).

The provisional rejections of claims 1, 11 and 23 on the ground of non-statutory obviousness-type double patenting over claim 1 of co-pending Application Serial No. 10/687,006 have been noted and will be addressed upon indication of allowance of the present application.

For the reasons explained below, applicants respectfully traverse the rejections of claims 1, 11 and 23 on the ground of nonstatutory obviousness-type double patenting over claims 1, 5 and 11 of U S Patent No. 7,488,441. None of claims 1, 5 and 11 of U S Patent No. 7,488,441 suggests to the person of ordinary skill, increasing the velocity of the fibers by subjecting the fibers to a pneumatic attenuation force in a drawing slot, and after the fibers exit the drawing slot and before subjecting the fibers to electrostatic charge, passing the fibers through a diffusion chamber where the fibers reduce their velocity, as required by applicants' claim 1. None of claims 1, 5 and 11 of U S Patent No. 7,488,441 suggests to the person of ordinary skill, increasing the velocity of the

fibers by subjecting the fibers to a pneumatic attenuation force in a drawing slot, and after the fibers exit the drawing slot, passing the fibers through a diffusion chamber where the velocity of the fibers becomes reduced and where the fibers are subjected to electrostatic charge, as required by applicants' claim 11. None of claims 1, 5 and 11 of U S Patent No. 7,488,441 suggests to the person of ordinary skill, increasing the velocity of the fibers by subjecting the fibers to a pneumatic attenuation force in a drawing slot, using an electrostatic charging unit located on one of the drawing slot sidewalls to subject the fibers to electrostatic charge and after the fibers have been subjected to electrostatic charge, passing the fibers through a diffusion chamber where the velocity of the fibers becomes reduced, as required by applicants' claim 23.

Applicants therefore respectfully submit that claims 1, 11 and 23 are not invalid based on the ground of non-statutory obviousness-type double patenting over claims 1, 5 and 11 of U S Patent No. 7,488,441.

Applicants hereby reassert (as if fully set forth herein) the arguments for patentability presented in the Response submitted on December 12, 2008, and further reply to the numbered paragraphs in the Response to Arguments presented on pages 17-19 of the Final Office Action of March 2009 as set forth below:

1) The Response to Arguments section of the Final Office Action appears to take the position that unless the specification as originally filed explicitly stated that any source of attenuation air other than from the one sidewall opposite the sidewall on which the electrostatic charging unit is located is prohibited, applicant's original specification would not inform the person of ordinary skill of this fact. Referring to applicants' specification, the March 2009 Final Office Action states: "The specification

does not preclude additional attenuation air from being present." The March 2009 Final Office Action further contends that "the specification does not preclude any other source of attenuation air as claimed with the closed claim language of consisting." However, these comments seem to ignore the fact that claim 23 speaks only of the attenuation air that provides the pneumatic force to the fibers. The relevant language of claim 23 is "wherein the pneumatic attenuation force is provided by air consisting of * * * ."

Moreover, the Response to Arguments section of the Final Office Action apparently takes the position that in the absence of the word "consisting" in applicants' originally filed specification, the specification does not adequately inform the person of ordinary skill that the pneumatic attenuation force should be provided by attenuation air that only enters the drawing slot from the drawing slot sidewall that opposes the drawing slot sidewall where the electrostatic charging unit is located. Applicants respectfully disagree for the reasons set forth in detail in their prior response of December 12, 2008. The Examiner is respectfully requested to reconsider and to address the applicants' arguments set forth in the prior response.

2 and 3) It is well settled that a combination or modification of references that directly contradicts the intended purpose of the primary reference (in this case Haynes ' 071) is improper. M.P.E. P. § 2143.01 states:

> If [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.

The March 2009 Final Office Action relies on Epstein in a manner that impermissibly ignores the fact that Epstein's crimping of fibers would be disfavored by Haynes ' 071 because it would be contrary to the stated objective of Haynes '071 to

impose a "desired directional distribution on the web forming surface." Crimping the fibers would destroy their directional attributes. In other words, Epstein would defeat one of the main objectives of Haynes '071. The person of ordinary skill would not sacrifice a main objective of Haynes '071 for the possibility (and by no means a certainty) of achieving a secondary objective concerning softness that might result from Epstein's filament crimping.

Moreover, Epstein's use of opposite charging elements is limited to the very specific and precisely oriented single filament moving at a precise speed and under a precise tension. The person of ordinary skill realizes that such precise conditions do not pertain to the web forming process of either Haynes '071 or Maggio '134, which involve masses of individual fibers moving in a streaming volume in which the fibers are repelling one another.

4) As shown in Fig. 3 of Maggio '134, Maggio '134 has a rail 11 to electrostatically charge the filaments disposed only on one side of the filament path. Nor does Maggio '134 disclose more than one electrostatic charging unit in the diffusion chamber.

5) The tumultuous conditions of Schmit bear no resemblance to the very precise environmental conditions that Epstein requires when having two or more oppositely directed electrostatic charging units. Thus, the person of ordinary skill is not likely to think that Epstein's teachings would be applicable to the conditions present in Schmit.

6) Respectfully, applicants stand by their interpretation of the meaning of Schmit paragraph 0010. The March 2009 Office Action offered no counter argument to

applicants' assertion that "unvented" is not consistent with Schmit's desire to be able to balance the static pressure.

7) Schmit's diverging sidewall still leaves unsatisfied the requirement for at least two oppositely directed electrostatic charging units, which requirement is not suggested (for reasons already explained) to the person of ordinary skill by Epstein.

8 and 9) Claim 23 requires the attenuation force to impart a velocity to the fibers, and the attenuation force must be pneumatically applied in a drawing slot formed between opposed drawing slot sidewalls. Lines 8-11 on page 19 of the March 2009 Final Office Action contend:

> The air is provided above the diverging walls in Maggio '134, and the slowing occurs between the diverging walls (see, col. 5, lines 44-48). Thus, the slot of fast-moving air above the diverging walls would continue to pull the filaments. Thus, Maggio's providing of air necessarily occurs within a drawing slot.

However, the above quotation admits a slowing that occurs between the diverging walls. This slowing is inconsistent with the imparting of an attenuation force that applies a velocity to the fibers between those diverging walls. Claim 23 further requires then reducing the velocity of the fibers in the diffusion chamber that is formed of substantially diverging sidewalls. Thus, the Final Office Action cannot have it both ways. Either the diverging sidewalls are part of the diffusion chamber required by claim 23 or they are part of the slot where a pneumatic attenuation force imparts velocity to the fibers rather than slowing down the fibers. The interpretation of Maggio '134 asserted by the March 2009 Final Office Action is logically deficient for this reason.

9) The asserted interpretation of certain words in the Davis et al disclosure fails to survive interpretation of that language in the entire context of the Davis et al

disclosure. Nor does the interpretation of the same language in applicants' claim 23 read on the asserted disclosure in Davis et al.

Applicants respectfully request reconsideration and reexamination of claims 1 – 5, 11, 13 – 16 and 23 as presented herein, and submit that these claims are in condition for allowance and should be passed to issue.

With the present Response, it is respectfully submitted that all of the claims under consideration are allowable. Upon indication of the allowability of such claims, the withdrawn claims will be cancelled and the provisional double patenting rejection will be overcome with a properly executed Terminal Disclaimer or with convincing argument.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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